REMARKS

I.   Introduction

These remarks are in response to the Office Action mailed February 18, 2000. Claims 1-8, 10-21, and 23-32 remain in the application. Re-examination and re-consideration of the application, as amended, are requested.

II.   Allowable Subject Matter

In paragraph 4, the Office Action indicates that the subject matter of claims 31 and 32 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicants acknowledge the Office Action's indication of allowable subject matter, but traverse the rejection of claims 1-8, 10-21, and 23-30. Should the rejection of these claims be maintained, the Applicants will make suitable amendments to present the allowable claims in independent form.

III.   The Cited References and the Subject Invention

   A.   The Heath Reference

U.S. Patent No. 6,006,034, issued December 21, 1999 to Heath et al. discloses a system and method for automatically applying version upgrading and maintenance. The invention relates to methods and systems for maintaining application programs on a client computer in a client-server network environment. The task of dynamically upgrading components in the application program running on a client is simplified by rendering control to the individual client rather than to a central server. The version updating procedures of the invention further provide steps to ensure speedy and error-free transfer of the required files and components through an open network environment, such as the Internet.

2

B.   The LaPorta Reference

U.S. Patent No. 5,959,5432, issued September 28, 1999 to LaPorta et al. discloses a two-way wireless messaging system with flexible messaging. A plurality of messages are stored within a user agent of the two-way messaging network. The messages correspond to those selected by a subscriber of a two-way messaging service. The messages are encoded and include control information. An originating message transfer code is transmitted from the two-way messaging device of the subscriber to the two-way messaging network. The originating message transfer code includes, among other things a message number and a modifier that specifies customizations that are to be applied to a message. The originating message code is then expanded within the user agent, and the expanded message is forwarded to desired destinations based on the content of the originating message transfer code. In one aspect of the present invention, the message can be encoded with at least one control tag and in another aspect of the invention, the message can be encoded with paired control tags that delimit the beginning and end portions of a message to which control should be applied.

IV.   Office Action Rejections

In paragraph 3, the Office Action rejects claims 1-8, 20-21, and 23-30 under 35 U.S.C. § 103 as unpatentable over the Heath reference in view of the LaPorta reference. The Applicants respectfully traverse this rejection.

A.   Claims 1-12

With regard to claim 1: Claim 1 describes a method including the following step.

sequentially appending additional streams of data to the first stream of data according to each subsequent version up to and including the selected version, if the selected version of the streaming protocol is not the first version of the streaming protocol;

The Office Action indicates this step is disclosed in the Heath reference in the following passages:

"Information in the catalog file, which at least includes the updated list of components and version numbers on the client, is stored at 317 in cache on the client until the subsequent version update." (Col. 5, lines 61-67)

"Such a link is a uniform resource locator directed to a server site which makes available the catalog file for download through either the file transfer protocol (ftp) or the hypertext transfer protocol (http). The launcher program which receives and processes the catalog file is embedded (706) into the browser as a "plug-in" module or as a native browser control. A plug-in module is an integrated component of a browser which enables the execution of non-Web applications within the browser environment. A native browser control is built into the browser, and is hence more tightly integrated than any add-on modules on separate executables. At 708, the launcher is engaged to process the downloaded catalog file. Accordingly the components are downloaded to update the application program without leaving the Web browser at 710 and the program is executed at 712." (Col. 7, line 65 - Col. 8, line 12).

The first passage indicates that a catalog file, which has an updated list of components and version numbers is stored in a cache on the client. Essentially, the Heath reference discloses a method in which a catalog having each component and its version number is maintained on the server. In response to a client call to the server, the server downloads this catalog to the client. The client then compares version identification numbers received from the server with those maintained in the client. If the version numbers do not match, a later version is downloaded from the server. This is summarized in the following passage:

"In the preferred embodiment, the present invention involves maintaining on a server the components of an application program, each having a version identification, and maintaining a catalog of components with the version identifications. The components may include executable codes, library files, parameter files, and data files of the application program. The application program is further maintained at a client. In response to a call to the server from the client, the server is caused to download the catalog to the client and the client compares the version identifications between the components maintained on the server as indicated in the downloaded catalog and the components maintained on the client. The application program on the client is updated by downloading from the server to the client the selected components for which the version identifications do not match. The updated application program is then executed on the client" (Col. 1, line 56 - Col. 2, line 5).

This is entirely different than the Applicants' method of sequentially appending additional data streams according to each subsequent version. In fact, by teaching the separate maintenance of two catalogs (one in the server and one in the client) and comparing them to determine version numbers, the Heath reference teaches away from the Applicants' invention.

The Applicants also respectfully disagree that the Heath and LaPorta references can be combined as indicated. By using a catalog with version numbers and comparing those version numbers, there is simply no need or motivation for the Heath reference to resort to the use of begin and end tags.

For the foregoing reasons, the Applicants respectfully assert that the rejection of claim 1 is improper and should be withdrawn.

With regard to claims 2-12: Claims 2-12 include all of the limitations of claim 1 and are patentable on that basis alone. In addition, claims 2-12 include additional limitations which are not disclosed or suggested by the references of record.

For example, with respect to claim 2, the Office Action indicates that the following step:

if the second selected version is earlier than the first selected version, receiving each additional stream of data according to each subsequent version of the streaming protocol up to and including the second selected version, and disregarding any remaining data in the data segment

is disclosed in the Heath reference at Col. 8, line 65 - Col. 9, line 7. However, the cited portion of the Heath reference says nothing of the conditional receipt of data, or disregarding remaining data. As described above, Heath teaches a completely different method than that which is claimed in claim 2.

B.   Claims 13-18

With respect to claim 13: The Office Action rejected claim 13 on the same rationale as presented for claim 1. For the reasons discussed with regard to claim 1, the Applicants respectfully traverse this rejection.

With respect to claims 14: The Office Action does not provide a rationale for the rejection of claims 14, however, the Applicants presume that the rejection is made on the same rationale as claim 2. Applicants traverse this rejection for the reasons described above with respect to claim 2.

With respect to claim 15: The Office Action's rationale for rejecting claim 15 is unclear. Because claim 15 is dependent on patentable claim 13, the Applicants respectfully traverse this rejection.

With respect to claims 16, 17, and 18: The Office Action rejected claim 16 under the same rationale as claims 3, 5, and 6. For the reasons described above with respect to claims 3, 5, and 6, the Applicants respectfully traverse these rejections.

C.   Claims 19-21 and 23-30

With respect to claims 19, 24, 28, and 29: The Office Action rejected claim 19, 24, 28, and 29 under the same rationale as claim 1. For the reasons described with respect to claim 1, the Applicants respectfully traverse this rejection.

With respect to claims 20-21: The Office Action rejected claims 20 and 21 under the same rationale as claims 3 and 5. For the reasons described above with respect to claims 3 and 5, the Applicants respectfully traverse this rejection.

With respect to claims 23, 25-27: The Office Action rejected these claims, but did not provide a rationale for these rejections. Applicants respectfully traverse these rejections.

With respect to claim 30: The Office Action rejected claim 30 under the same rationale as claim 2. For the reasons described with respect to claim 2, the Applicants respectfully traverse this rejection.

V. Conclusion

In conclusion, independent claims 1, 13, 19, 24, 28, 29, and 30 of the present application recite novel features which are not found in or suggested by the cited references. In addition, claims 2-8, 10-12, 14-18, 20-21, 23, 25-27, as well as allowable claims 31 and 32 dependent thereon include additional novel features and are even more remote from the teachings of the cited references. As a result, the Applicants respectfully request the allowance of the present application.

In view of the foregoing, it is submitted that this application is now in good order for allowance and such allowance is respectfully requested. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call the Applicants' undersigned attorney.

Respectfully submitted,

Mark E. Davis, et al.

By their attorneys,

GATES & COOPER
6701 Center Drive West, Suite 1050
Los Angeles, California 90045
(310) 642-4142

Dated: May 17, 2000

By: _____
Victor G. Cooper
Reg. No. 39,641

7